REMARKS

This Amendment is fully responsive to the non-final Office Action dated October 8, 2008, issued in connection with the above-identified application. A petition for a two-month extension of time accompanies this Amendment. Claims 1-30 are pending in the present application. With this Amendment, claims 1-4, 6-9 and 11-30 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

To facilitate the Examiner's reconsideration of the present application, the Applicants have provided amendments to the specification and the abstract. The changes to the specification and the abstract include minor editorial and clarifying changes. Replacement paragraphs and a replacement abstract are enclosed. No new matter has been introduced by the amendments made to the specification and the abstract.

In the Office Action, the Examiner indicates that the language "operable to" used throughout the claims is "intended use," which is not given patentable weight for distinguishing the present invention from the cited prior art. The Applicants have amended the claims to remove the phrase "operable to." Accordingly, the Applicants request that full patentable weight be given to all the features recited in the claims.

In the Office Action, the Examiner has rejected claims 29 and 30 under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Specifically, the Examiner asserts that the claims are directed to software *per se*, which is non-statutory. The Applicants have amended claims 29 and 30 to more specifically point out that the programs recited in the claims are "stored on a computer-readable storage medium," and when a program is stored on a computer-readable storage medium the program becomes structurally and functionally interrelated to the computer-readable storage medium making it statutory in most cases (see MPEP 2106.01). Withdrawal of the rejection to claims 29 and 30 under 35 U.S.C. 101 is respectfully requested.

In the Office Action, the Examiner has rejected claims 1-30 under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner indicates that claims 1, 17, 22 and 27-30 recite the limitation that "a second condition that indicates a part or all of the use permitted under the first condition and indicates whether the license information is valid based on a logical

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product of the first condition and the second condition" is indefinite. The Applicants have amended the above claims to remove the limitation in question. Accordingly, withdrawal of the rejection to claims 1-30 under 35 U.S.C. 112, second paragraph, is respectfully requested.

In Office Action, the Examiner has rejected claims 1-8, 10-13, 17-23, 25 and 27-30 under 35 U.S.C. 102(b) as being anticipated by Ginter et al. (U.S. Patent No. 5,892,900, hereinafter "Ginter"). The Applicants have amended independent claims 1, 17, 22 and 27-30 to help further distinguish the present invention over the cited prior art. For example, independent claim 1 recites the following features:

"[a] digital content distribution system, comprising:

a right management server and a user terminal which are connected to each other via a communication network,

wherein said user terminal includes:

a storing unit configured to store license information which includes first condition information and second condition information, the first condition information indicating a first usage condition for the use of a content, and the second condition information being information for limiting the first usage condition;

a judging unit configured to judge whether or not the license information is valid, by checking whether or not a limited first condition is satisfied, the limited first condition being the first condition having been limited according to the second condition information;

a using unit configured to use the content according to the limited first condition when the license information is judged to be valid;

a requesting unit that is configured to (i) send the license information including both of the first condition information and the second condition information to said right management server, when the license information is judged to be invalid, and (ii) receive an updated license information from said right management server, the updated license information including the first condition information included in the license information and a second condition information having been updated by said right management server; and

said right management server includes:

an updating unit configured to (i) receive the license information from said user terminal,

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and (ii) update the second condition information of the license information to thereby generate the updated license information; and

a sending unit configured to send the updated license information to said user terminal."

One or more of the features emphasized above in independent claim 1 are similarly recited in independent claims 17, 22 and 27-30. Specifically, claims 17, 22 and 27-30 recite either one or both of the features of the requesting unit and updating unit recited in independent claim 1. Additionally, the features emphasized above are fully supported by the Applicants' disclosure.

Independent claims 1, 17, 22 and 27-30 have been amended to point out in detail the distinguishable features of the requesting unit and updating unit of the present invention. Specifically, independent claims 1, 17, 22 and 27-30 (as amended) similarly recite the following features that are not believed to be disclosed or suggested by the cited prior art:

(1)   sending the license information to the right management server when updating the license information whose use right is consumed; and

(2)   updating the second condition information that is for limiting the first usage condition and that is included in the license information, thereby generates the updated license information.

Generally, the use rights assigned to each terminal differs depending on the fee that the user of the terminal has paid and a contract. Thus, in the conventional system, the server manages the respective use rights for each terminal. However, when the use rights are divided and provided to each terminal with this configuration, the server must manage all the information until the use rights for all of the terminals are consumed. For this reason, when the number of the terminals increases, the amount of information managed in the server increases, which leads to heavier load on the server.

In contrast, according to the present invention (as recited in independent claims 1, 17, 22 and 27-30), the license information given to each user terminal includes both the use right of each content (first condition information) and the information for limiting the use right (second condition information). Furthermore, when all of the limited use right is consumed, each terminal sends the entire license information back to the server, so that the limit (second

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condition information) is updated.

With this configuration, even if the server does not manage the information indicating the use right of the content, the information is included in the license information sent back from the terminal. Thus, it is possible to reduce the amount of information to be managed by the server, and reduce the load on the server. Furthermore, with this configuration, it is expected that the user sends the license information back to the server every time the limited use right is consumed so as not to waste the remaining use rights. In this time, the management server can receive information of the user, for example, user preferences. Thus, there is an advantage that collecting this information allows collecting information on user preferences.

In the Office Action, the Examiner relies on Ginter for disclosing or suggesting all the features recited in independent claims 1, 17, 22 and 27-30. However, the Applicants maintain that Ginter fails to disclose or suggest all the features recited in independent claims 1, 17, 22 and 27-30, as amended.

In Ginter, the following information is collectively delivered as a container (see e.g., Fig. 5B; col. 13; and col. 59): 1) permission record-information specifying a user who can access the container; and 2) budgets-information specifying maximum use condition of the content and the charging condition.

As described in Ginter, a permission record may also be considered as a large use right, and the budgets may also be considered as a small use right (or the information for limiting the larger use right). Thus, it is possible to consider that the permission record corresponds to the first condition information of the present invention, the budgets correspond to the second information of the present invention, and the container corresponds to the license information of the present invention (as noted by the Examiner).

However, Ginter fails to disclose or suggest a configuration that, when the limited use right is consumed, the whole container (corresponding to the license information of the present invention) including the permission record (corresponding to the first condition information of the present invention) and the budgets (corresponding to the second condition information of the present invention) is sent back to the terminal in order to update the used right. Thus, the configuration for updating the container by updating the budgets in the container is not disclosed

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or suggested by Ginter.

Thus, in Ginter, the server has to manage the use right assigned to each terminal as in the conventional technique, which increases the amount of information managed by the server. Furthermore, the communication from the terminal is not assured since no communication for updating the license is performed by the terminal.

Based on the above discussion, the present invention (as recited in independent claims 1, 17, 22 and 27-30) is clearly distinguished over Ginter. Accordingly, Ginter fails to disclose or suggest all the features recited in independent claims 1, 17, 22 and 27-30 (as amended). Likewise, Ginter fails to disclose or suggest all the features recited in claims 2-8, 10-13, 18-21, 23 and 25 at least by virtue of their respective dependencies from independent claims 1, 17 and 22.

In the Office Action, claims 9, 14-16, 24 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter. Claims 9 and 14-16 depend from independent claim 1; and claims 24 and 26 depend from independent claim 22. As noted above, Ginter fails to disclose or suggest all the features recited in independent claims 1 and 22 (as amended). Accordingly, Ginter fails to render obvious the feature of claims 9, 14-16, 24 and 26 at least by virtue of their respective dependencies from independent claims 1 and 22.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue.

Respectfully submitted,

Sen'ichi ONODA et al.

/Mark D. Pratt/
By:2009.03.09 14:16:26 -04'00'

Mark D. Pratt
Registration No. 45794
Attorney for Applicants

MDP/ats
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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